



Document No. 6

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JAN 21 2003

OFFICE OF PETITIONS

In re Application of
Chris D. Constantinides
Application No. 10/044,296
Filed: January 10, 2002
Attorney Docket No. 56783

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed December 25, 2002, to revive the above-mentioned application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on April 26, 2002, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed February 25, 2002, which set a shortened period for reply of two (2) months from its mailing date. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained; the application became abandoned on April 26, 2002.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of items (1) and (2) above.

The Notice required that petitioner remit \$740.00 for the application filing fee, \$342.00 for claim fees, \$280.00 for dependent claim fees, and \$130.00 surcharge. A petition fee in the amount of \$1280.00 was also required. As of the date of disposition of the subject petition, the balance of the designated deposit account was only \$2,645.00, not sufficient to cover the amounts required. With any renewed petition filed, petitioner must remit the entire amount required by the Notice, and the petition fee.

The Notice also required substitute drawings to be filed. No drawings were found amount the petition papers. Any renewed petition filed must be accompanied by substitute drawings as required by the Notice.

The petition under 37 CFR 1.47(b) filed December 20, 2002, is noted, however; the petition will not be entertained until the application is revived by a proper petition pursuant to 37 CFR 1.137(b).

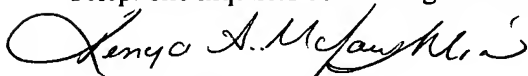
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAY
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
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Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.



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